

**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**HASSAN GOLCHINI,**

**Plaintiff and Appellant,**

**v.**

**THE STATE OF CALIFORNIA, AS  
RESPONDEAT SUPERIOR, et al.,**

**Defendants and Respondents.**

**A129409**

**(San Francisco County  
Super. Ct. No. CGC-09-486065)**

Hassan Golchini appeals from a judgment of dismissal entered after an order sustaining respondent's demurrer to his second amended complaint without leave to amend. He contends the court erred in finding his causes of action barred by his failure to comply with the Tort Claims Act (Gov. Code, §§ 810 et seq., also known as the Government Claims Act) and in failing to grant him further leave to amend.<sup>1</sup> We will affirm the judgment.

**I. FACTS AND PROCEDURAL HISTORY**

*A. Golchini's First Two Complaints*

Golchini filed a complaint in this action on March 12, 2009, against numerous defendants including respondent members of the Board of Trustees of California State University in their in their official capacities (CSU).

<sup>1</sup> Although traditionally known as the Tort Claims Act, it is more appropriately called the Government Claims Act because it applies to contract claims as well as tort claims. (*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 741-742.) We will nonetheless use the term Tort Claims Act, to be consistent with the record in this case.

In April 2009, CSU filed a demurrer to the complaint on the ground that it failed to allege compliance with the Tort Claims Act. On June 24, 2009, the court sustained the demurrer with leave to amend.

On June 25, 2009, Golchini filed a first amended complaint against defendants, including CSU. CSU filed a demurrer to the first amended complaint, again asserting, among other things, that Golchini failed to allege compliance with the Tort Claims Act. On October 1, 2009, the court sustained respondent's demurrer to the first amended complaint "with ten (10) days leave to amend."

#### *B. Second Amended Complaint*

On November 19, 2009, Golchini filed a second amended complaint against defendants including respondent CSU.<sup>2</sup> We have read and considered the entirety of the second amended complaint, as well as Golchini's arguments based on its allegations; the following is a summary.

##### *1. Allegations of the Second Amended Complaint*

Golchini was a graduate student at San Francisco State University (SFSU) and was employed as a member of SFSU's library staff. In June 2005, he signed a lease agreement for an apartment owned by SFSU.

Later in June 2005, Golchini allegedly discovered documents, dating back to December 2003, which bore "his identity." He investigated the matter for the next five months, uncovering allegedly illegal activities at SFSU, including corruption and identity theft used to fabricate a lease, establish utilities, obtain credit cards, and collect employee benefits.

When Golchini began to "speak up" about the matter in December 2005, he allegedly found himself in a "hostile environment." In January 2006, he requested to move to another apartment unit, but SFSU denied his request. An assault, robbery, and burglary allegedly followed.

---

<sup>2</sup> CSU filed a motion to strike and dismiss the second amended complaint as untimely, because it was filed more than 10 days after October 1, 2009. The court denied the motion and ordered CSU to file a responsive pleading.

In February 2006, Golchini was suspended from his employment. His apartment was burglarized again in March 2006, and he was “suspended” from his apartment and told to leave or go to jail. He met with a university employee in the human resources department, defendant James Cayaes, at the campus police station, along with a union supervisor; the “suspension” from his apartment was lifted, but the union supervisor allegedly told him to resign.

In April 2006, Golchini was arrested and jailed, his court-appointed counsel entered a guilty plea on his behalf, and he was convicted and placed on probation with a “search order.” On the day of his arrest, Golchini’s car was towed.

On May 10, 2006, campus employees allegedly went to Golchini’s apartment and instructed him to leave without taking his property, which he has not been able to recover. In addition, Golchini alleges, he was compelled to write a letter resigning from his employment, for which the university failed to pay him all of his wages.

In August 2006, Golchini received a statement of account in regard to rent due for August and September, 2006, “under his identity with an alteration of a letter in his last name.” “On May 22, 2007, based on the August 19, 2006 statement of account, [Golchini] served defendants a formal letter of ‘demand to pay’ and requested to remedy his injuries. A month later he filed with federal court.”

At 1:30 a.m. on September 11, 2007, a block away from SFSU, a car deliberately struck him and fled. Golchini alleges that he was seriously injured and hospitalized for a few days. Thirty reported incidents “gradually contributed to his physical and mental impairment, and significantly affected his ability to perform his daily activities and to meet his responsibilities.”

In late 2007 or early 2008, the district attorney brought charges against Golchini for making a threat in connection with a matter concerning a rental car agency, but the charges were purportedly dismissed.

Effective February 13, 2008, Golchini alleges, he was expelled from SFSU. On February 19, 2008, he met with an assistant dean, defendant Will Flowers, to discuss his expulsion. Among other things, they discussed the complaint from the rental car agency

employee, which had arisen after the agency purportedly failed to return property Golchini had left in a rental car. Golchini also gave Flowers a copy of the civil complaint he had filed in federal court.

Amended allegations against Gochini (apparently, grounds for his expulsion from SFSU) were served on him around February 28, 2008. Golchini requested a postponement of the hearing set for the matter, but the request was not granted.

On March 14, 2008, at a hearing at which Golchini did not appear, he was expelled from the university. On April 21, 2008, he was informed that his “permanent separation from CSU system resulted from a finding that he violated student code of conduct under section 41301 of Title V of the California Rule of Regulations.” Gochini alleges that he “suffered expulsion from university for service of his formal legal letter of demand to pay and petitioning the court, the university construed this letter and complaint as a threat against the school.”

## *2. Causes of Action in the Second Amended Complaint*

Golchini asserted causes of action for: (1) violation of section 2 and section 7 of article I of the California Constitution, on the ground that the university’s regulations limited his speech ; (2) deprivation of his rights under article I, section 2 of the California Constitution, based on the university’s restrictive regulations; (3) violation of Golchini’s free speech rights, property rights, and liberty rights under article I, sections 2 and 7 of the California Constitution, based on his expulsion from the university ; (4) violation of his right to equal protection under article I, section 7 of the California Constitution; (5) retaliation or coercion in violation of the California Education Code ; (6) violation of the Unruh Civil Rights Act (Civ. Code, §§ 51, 51.5); (7) breach of a contract and breach of the covenant of good faith, for failing to provide an environment free from discrimination and harassment; (8) violation of article I, sections 2 and 7 of the California Constitution, by evicting him from his apartment and causing him to forfeit his property in retaliation for his constitutionally protected acts; (9) conspiracy; (10) violation of article I, sections 2 and 7 of the California Constitution, by terminating him from his employment in retaliation for his constitutionally protected behavior; (11) conspiracy as

to his termination; (12) violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq.); (13) violation of “California Public Safety Officer’s Procedural Bill of Rights Act” (Gov. Code, § 3000 et seq.); (14) intentional infliction of emotional distress; (15) negligence; and (16) negligent infliction of emotional distress.

The second amended complaint sought monetary damages, declaratory relief, and injunctive relief.

### *3. Motion to Waive the Tort Claims Requirement*

On February 1, 2010, Golchini filed a motion to “waive” the requirement of the Tort Claims Act with respect to his second amended complaint, on the ground that he adequately alleged compliance with the claims requirements, his claims were not barred by any statutes of limitation, and he adequately pled compliance with rule 2.112 of the California Rules of Court. Respondent filed an opposition to the motion on February 4, 2010. On March 16, 2010, the court treated the matter as a motion for late claim relief, and denied the motion.

### *4. Respondent’s Demurrer*

On June 24, 2010, CSU filed a demurrer to Golchini’s second amended complaint, asserting that Golchini again failed to allege compliance with the Tort Claims Act, CSU was immune from liability, and the second amended complaint was barred by workers’ compensation exclusivity.

Golchini filed a 34-page opposition to respondent’s demurrer on July 1, 2010. He contended: he did not have to allege compliance with the Tort Claims Act; his failure to comply with the Tort Claims Act was excused because CSU’s attorney had agreed to accept service of his complaint on March 12, 2009, but then obstructed the service of process; CSU’s campaign to prevent him from disclosing corruption estopped CSU from asserting a defense based on his failure to file the required claim; the court should grant him relief for late compliance; and he pled compliance with the claim requirements. He also addressed CSU’s arguments with respect to immunity and workers compensation exclusivity.

A hearing on CSU's demurrer was held on July 26, 2010. Golchini personally appeared and presented argument on his own behalf. The court thereafter indicated its intention to sustain the demurrer without leave to amend. CSU presented to the court a proposed order, which it had purportedly served on Golchini in advance, and the court stated it was signing the proposed order.

#### 5. *Written Order Sustaining Demurrer Without Leave to Amend*

The court's written order, filed on July 26, 2010, found as follows: (1) "Golchini failed to comply with the appropriate claim submission procedures and it is beyond one year to file a late claim to cure. As a result, this court lacks jurisdiction over Golchini's Second Amended Complaint and it is barred by claim submission statutes and is incapable of being cured"; (2) "Golchini's allegations against CSU arise from conduct by CSU employees who enjoyed immunity for their actions. As a result, CSU has derivative immunity and is entitled to immunity from this suit"; and (3) "Golchini's Second Amended Complaint is verified and 'at all times' he alleges he was employed by CSU. Since Golchini alleges such employment caused him personal injuries, then his complaint is barred by workers' compensation exclusivity."

The order and judgment further provided that CSU's demurrer was sustained without leave to amend, because the second amended complaint contained defects incapable of being cured and was the third attempt at filing a viable complaint. The action was dismissed and judgment was entered accordingly.

This appeal followed.

## II. DISCUSSION

In our de novo review of an order sustaining a demurrer, we assume the truth of all facts properly pleaded in the complaint or reasonably inferred from the pleading, but not mere contentions, deductions, or conclusions of law. (*Buller v. Sutter Health* (2008) 160 Cal.App.4th 981, 985-986.) We then determine if those facts are sufficient, as a matter of law, to state a cause of action under any legal theory. (*Aguilera v. Heiman* (2009) 174 Cal.App.4th 590, 595.) We review the denial of leave to amend for an abuse of discretion. (*Debro v. Los Angeles Raiders* (2001) 92 Cal.App.4th 940, 946 (*Debro*).)

In order to prevail on appeal, an appellant must affirmatively demonstrate error. Specifically, the appellant must show that the facts pleaded are sufficient to establish every element of a cause of action and overcome all legal grounds on which the trial court sustained the demurrer. (*Cantu v. Resolution Trust Corp.* (1992) 4 Cal.App.4th 857, 879-880.) We will affirm the ruling if there is any ground on which the demurrer could have been properly sustained. (*Debro, supra*, 92 Cal.App.4th at p. 946.)

In his opening brief, Golchini represents the following as the issues on appeal: (1) whether estoppel bars CSU from asserting the defense of noncompliance with the Tort Claims Act; (2) whether Golchini substantially complied with the requirements of the Tort Claims Act; (3) whether the requirements should have been waived; (4) whether he is required to plead compliance with the claim presentation requirement “against defendants working for university as independent contractors that are outside the coverage of the California Tort Claims Act,” for claims under federal law, and for claims seeking equitable relief; and (5) whether the court abused its discretion in sustaining the demurrer without leave to amend.<sup>3</sup> He does not provide a substantive challenge to the grounds on which the demurrer was sustained, except as to the claims presentation requirement of the Tort Claims Act.

*A. Golchini’s Failure to Allege the Timely Presentation of a Claim*

“No suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented . . . until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board . . .” (Gov. Code, § 945.4.) The claim must

---

<sup>3</sup> Golchini’s opening brief does not explain why the requirements should have been waived; we have reviewed the arguments he made in this regard in the trial court and find no error. Golchini argued in the trial court that he was excused from complying with the claims presentation requirements because CSU’s attorney agreed to accept service of Golchini’s complaint on March 12, 2009, but then obstructed his service of the complaint. Whatever CSU allegedly did in regard to Golchini’s efforts to serve the complaint did not preclude Golchini from complying with the claims presentation requirements *before* filing and serving the complaint. In any event, Golchini does not pursue the waiver argument here.

contain the information required by Government Code section 910 and be presented to the public entity – in this case, the Board of Trustees of California State University – within the time prescribed by Government Code section 911.2. (Gov. Code, § 915.) A complaint that does not allege timely compliance with the presentation requirement is subject to a general demurrer. (*State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1240-1241 & fn. 8.)

In the matter before us, Golchini’s second amended complaint does not allege that he presented a claim to the Board of Trustees of California State University in compliance with the Tort Claims Act. Accordingly, the second amended complaint failed to state “a cause of action for which a claim is required to be presented.” (Gov. Code, § 945.4.) Or, to put it another way, Golchini’s failure to present a timely claim in compliance with the Tort Claims Act (and his failure to allege such compliance) precludes him from pursuing any cause of action for money or damages.

As we discuss *post*, Golchini fails to establish that he has any viable claim that would *not* require compliance with the Tort Claims Act, and has failed to demonstrate reversible error because he has not rebutted all of the grounds on which the demurrer was sustained. But first, we address the arguments he does make – his contentions that the Tort Claims Act should not bar any of his causes of action.

### 1. *Estoppel*

Golchini contends that the “record contains ample justification that university is equitably stopped to assert its claim notice, late-claim and statute of limitations defenses . . . because of the university’s agents or employees’ acts of intimidation, threats, coercion, and misrepresentations.” These events “occurred in December 2005 through 2008, and discreetly continued through 2009.”

More specifically, Golchini argues in his opening brief that the following estops CSU from asserting a defense based on his failure to comply with the Tort Claims Act: in January 2006, his request to move to another apartment unit was denied, he was the subject of racial discrimination, and he was the victim of premeditated assault and robbery; in February 2006, he was suspended from work, he was defrauded on the pretext

that he pay his rent in advance, he was poisoned, the fire department “axed down” his front door due to a prank call, his apartment was raided by campus police, he was forced to sign a consent to the raid, and his “mail started be missing;” in March 2006, his apartment was burglarized and the university interfered with his effort to have the police investigate; defendant Cayaes told him to meet with a union representative, who advised him to quit because the university does not answer to anyone and he could do nothing about it, and his “fear was reinforced with an attempted assault, and then he was framed and jailed,” after which police subjected him to “mental questioning;” in April 2006, he was again framed and taken into custody, jailed, and convicted though innocent, and his car was towed during his incarceration; in May 2006, he was forced out of his apartment without his property, his family was harassed, and his grandfather had a heart attack and “past;” in July 2006, he was told to “quit” or he would not work in this country anymore, and he was prevented from obtaining disability benefits; at some point, two individuals violently broke his front door in his motel room, charged him with a deadly weapon, and assaulted and robbed him; in September 2006, he was attacked, assaulted, robbed, and “told to leave;” in October 2006, there was a “deliberate sabotage to break [sic] lines of his car”; in November 2006, he was again incarcerated; after he submitted a “claim” for compensation in May 2007, the university placed a hold on his registration and financial aid; a fraudulent civil judgment was entered against him; in September 2007, he was attacked in a hit and run incident; in October 2007, he filed a complaint in federal court and again suffered “involuntary incarceration;” he was expelled from the university; he was taken into custody and held for 30 days on three different occasions; and in October 2008, he was the victim of two more hit and run accidents. Further, Golchini argues, at one point he was financially able to hire a lawyer, but the university dissuaded him from doing so and employed horrific tactics to destroy his entire life, so that he never had a chance to protect his rights. In addition, he insists, the university lulled him into a false sense of security in February 2008 by telling him that if he “forgets” the (federal) lawsuit and left the city, the university would give him his diplomas and discuss his

claims. Now he is 60 years old, homeless, and suffering from post-traumatic stress syndrome.

Accepting these assertions as true for purposes of demurrer (because the factual assertions were either included as allegations in the second amended complaint or are matters that, although not alleged, could assumedly be alleged if amendment were permitted), they do not establish that CSU, or anyone on its behalf, did anything to Golchini that prevented him from *filing a claim with the appropriate public entity*.

Notwithstanding what he says CSU and others did to him, Golchini was of sufficient wherewithal to submit what he calls a “claim” in May 2007 (discussed *post*), to file a federal lawsuit in October 2007, and to file the lawsuit in this action in March 2009. There is no allegation or explanation as to why, given his ability to file and serve these other documents in repeated attempts to vindicate his legal rights, he was unable to file a claim with the appropriate public entity in compliance with the Tort Claims Act. As a result, there is no link between what CSU allegedly did and Golchini’s failure to present a valid claim. Golchini’s reliance on *John R. v. Oakland Unified School Dist.* (1989) 48 Cal.3d 438 is therefore misplaced. (*Id.* at pp. 442, 445-446 [schoolteacher’s threats of retaliation dissuaded his student victim from disclosing molestation until after the deadline for filing a claim]; see also *Ortega v. Pajaro Valley Unified School Dist.* (1998) 64 Cal.App.4th 1023, 1044 [equitable estoppel requires that the party to be estopped was apprised of the facts and intended its conduct to be acted upon or instilled a reasonable belief it was so intended, and the party seeking estoppel is ignorant of the facts and relied on the conduct to his detriment].)

Golchini fails to demonstrate error in the court’s rejection of his estoppel arguments.

## *2. Allegations of Timely and Substantial Compliance*

Golchini argues that the second amended complaint alleges he filed a claim with the “university” on May 22, 2007, in which he demanded compensation for his injury. He further argues that the time to present his claim was tolled for four months and 22 days because the university or its agents engaged in unconscionable acts, so his

May 2007 “claim” was timely with respect to the wrongful discharge and seizure of property that purportedly occurred on July 31, 2006, the unlawful eviction that allegedly occurred on August 19, 2006, and – although it happened nearly a year after he submitted his “claim” – the wrongful expulsion from the university that purportedly took place on April 21, 2008.

Golchini’s second amended complaint merely alleges in this regard: “On May 22, 2007, based on the August 19, 2006 statement of account, [Golchini] served defendants a formal letter of ‘demand to pay’ and requested to remedy his injuries.”

There is no allegation as to what was contained in the May 2007 “demand to pay” letter, although the inference is that it pertained to the rent the university had claimed he owed in August 2006. Golchini attempts to clarify the contents of the May 2007 letter in his opening brief in this appeal: “In its claim notice, appellant alleged that university through its agents, among others, defendant Valdez, has engaged in improper activities, in violation of the Constitution and laws of the State of California and of the United States, which has resulted in his demise. In its claim letter, he demanded a Million dollar in compensation for his injury. He stated in its claim letter that . . . failure to remedy its claim, he would take the university to court and file a lawsuit.”

Based on his own depictions of the letter’s contents, the May 2007 letter does not comply with the statutory requirements for a claim as set forth in Government Code section 910. Among other things, Government Code section 910 requires that the claim include: the date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted; a general description of the injury, damage or loss incurred, and the names of the public employees causing the injury, damage or loss, if known. Neither the allegations of the second amended complaint, nor the representations in Golchini’s brief in this court, demonstrate that the letter he submitted to the university in May 2007 complied with these requirements.

Golchini argues that his May 2007 letter satisfied the policies of the claims statutes and was therefore sufficient under the doctrine of substantial compliance.

According to Golchini, the May 2007 letter fulfilled the Tort Claims Act's purpose by putting CSU on notice of his pending claim so it could investigate.

Under the doctrine of substantial compliance, a claim may be deemed valid if it substantially complies with all of the statutory requirements for a valid claim, even though it is technically deficient. (*Santee v. Santa Clara County Office of Education* (1990) 220 Cal.App.3d 702, 713 (*Santee*).) The doctrine is based on the idea that “substantial compliance fulfills the purpose of the claims statutes, namely, to give the public entity timely notice of the nature of the claim so that it may investigate and settle those having merit without litigation.” (*Ibid.*)

Golchini's substantial compliance argument fails. The allegations of the second amended complaint do not establish that the May 2007 letter gave CSU adequate notice of the broad scope of wrongdoing Golchini subsequently alleged in his pleading. There is no indication in the allegations, for example, that the May 2007 letter mentioned anything about any harm, injury, or loss arising from his alleged eviction, employment, or expulsion from SFSU, which occurred after May 2007.

Moreover, the doctrine of substantial compliance does not apply where the purported claim is presented to the wrong entity. (*Santee, supra*, 220 Cal.App.3d at p. 713.) Golchini did not specifically allege in his second amended complaint, or even argue in his opposition to the demurrer in the trial court or in his appellate briefs in this court, that he ever served the May 22, 2007 “claim” on the Board of Trustees of California State University. To the contrary, he alleged in his pleading that it was served on “defendants.” He elaborates in his opening brief, and stated to the same effect in his opposition to the demurrer, that “he personally hand delivered its [sic] claim notice to four department[s] in [the] university, (1) off-campus housing management office, (2) director of off-campus housing, (3) SFSU housing office, and (4) SFSU Foundation.” As such, Golchini himself confirms that the May 2007 letter was not presented to the public entity as required by the Tort Claims Act.

In sum, the May 22, 2007 “claim” or “demand to pay letter” does not constitute substantial compliance with the requirements of the Tort Claims Act. The trial court did not err in rejecting Golchini’s argument.<sup>4</sup>

### *3. Summary Denial of Application*

Golchini argues that on August 31, 2009, he requested judicial notice and sought an order for documents to be filed under seal. He complains that the court summarily rejected his concerns, denying him a fair trial. In addition, Golchini asserts that the court denied an application for a protective order in February 2010 without giving him a reasonable opportunity to develop the facts of the case and an evidentiary hearing. He argues that his applications were designed to develop the facts of the case, and the denial of those applications had the effect of dismissing his entire action.

Golchini’s arguments are unpersuasive. The dismissal of his entire action was not because he was unable to develop facts, but because he never complied with the claims presentation requirement, CSU was found to be immune from liability, and workers’ compensation exclusivity was deemed to apply. There is no showing that his applications would have resulted in his obtaining information that would have made any difference to the sufficiency of his pleading in these respects.

### *4. Applicability of Claims Requirement*

Golchini argues that the claim presentation requirement does not bar his second amended complaint, because he is not required to plead compliance with the claim presentation requirement against defendants who work for CSU as independent contractors. (See Gov. Code, §§ 810.2, 811.4.) His second amended complaint alleges that Kennedy Wilson Property Management Ltd., is an “independent,” which we may

---

<sup>4</sup> Golchini contends the trial court failed to consider his defenses of “doctrine of estoppels and substantial compliance.” He also argues that the trial court should not have “summarily and without a hearing denied appellant application on the ground of estoppel.” His arguments are meritless. The order implicitly denying his estoppel argument was issued after a hearing, and there is no indication that the trial court did not consider the matters raised by the parties in their briefs and at the hearing.

interpret to mean “an independent contractor,” and two defendants (Valdez and Rosten) are its employees.

Golchini’s argument has no merit. The respondent in this appeal is *CSU*. At issue in this appeal – as it was in *CSU*’s demurrer – is whether the second amended complaint should be dismissed as to *CSU*, not an independent contractor. *CSU* is a state government entity, and to the extent Golchini seeks to hold *CSU* liable for damages, he must allege compliance with the claims presentation requirement of the Tort Claims Act.<sup>5</sup>

Golchini further argues that the Tort Claims Act does not apply because he seeks equitable relief for the “tort of wrongful expulsion.” The prayer of the second amended complaint seeks declaratory relief and injunctive relief as well as monetary damages. The first two causes of action, based on the university’s regulations, explicitly seek injunctive relief in addition to damages. The first and third causes of action expressly seek declaratory relief. And, at the demurrer hearing, Golchini argued that he merely wanted his diplomas and the return of his property.

Golchini is correct that the claims presentation requirement does not apply to a cause of action that seeks injunctive or declaratory relief. (*Minsky v. City of Los Angeles* (1974) 11 Cal.3d 113, 121; *Canova v. Trustees of Imperial Irrigation Dist. Employee Pension Plan* (2007) 150 Cal.App.4th 1487, 1493.) Thus, to the extent that Golchini’s second amended complaint alleges facts sufficient to state a viable cause of action seeking injunctive or declaratory relief, the claims presentation requirement of the Tort Claims Act does not provide a sufficient ground for sustaining the demurrer.

The question therefore becomes whether the allegations of the second amended complaint state any *viable* cause of action that seeks injunctive or declaratory relief. To decide this issue, we turn to the other grounds on which the demurrer was brought and sustained.

---

<sup>5</sup> Golchini also argues that the Tort Claims Act does not apply because he brought a wrongful termination claim under a federal statute, section 1983 of Title 42 of the United States Code. The second amended complaint does not mention section 1983, and Golchini did not raise this argument in the trial court.

### B. *Other Grounds for Demurrer*

CSU's demurrer was sustained not just on the ground of Golchini's failure to comply with the Tort Claims Act, but on two other grounds: CSU had governmental immunity with respect to the claims asserted against it, and the second amended complaint was barred because the relief Golchini sought was within the exclusive domain of workers' compensation laws. The court's written order sustaining the demurrer and dismissing the second amended complaint was squarely based on all three of these grounds; Golchini, however, addresses only the Tort Claims Act ground.

Golchini does not attempt to demonstrate error in the court's ruling that CSU was entitled to "immunity from suit" and that his second amended complaint was "barred" based on workers' compensation exclusivity. If an appellant fails to raise an issue on appeal, he has waived it. (*Tiernan v. Trustees of Cal. State University & Colleges* (1982) 33 Cal.3d 211, 216, fn. 4.)

Golchini's failure to demonstrate error as to these other grounds for the demurrer precludes him from obtaining reversal. To obtain reversal of an order sustaining a demurrer, the appellant must establish that *all* of the grounds on which the demurrer was brought and sustained are erroneous. (See *Irwin v. City of Manhattan Beach* (1966) 65 Cal.2d 13, 20 [if demurrer is well taken on *any* of its grounds, the order sustaining the demurrer must be affirmed on appeal].) If the appellant establishes only that one of the grounds is erroneous, he has not demonstrated the prejudice of that error, and is not entitled to reversal, unless he also establishes that the other grounds were erroneous as well. (See *Hoffman Street, LLC v. City of West Hollywood* (2009) 179 Cal.App.4th 754, 772-773 [court's error in denying relief for failure to exhaust administrative remedies was not reversible where appellant addressed the exhaustion issue, but did not establish the substantive merit of the claim].)

Golchini argues in his reply brief that the court's order sustaining the demurrer was based solely on his failure to plead compliance with the claims presentation requirement, because that was the only ground stated by the court at the hearing, argued by the parties at the hearing, and appearing in the registry of actions' description of the

ensuing minute order by the court clerk. He is incorrect. All of the grounds for the demurrer were before the court by virtue of the moving papers, and the formal written order and judgment signed by the judge – which specified all three grounds – prevails over the court’s oral comments at the hearing and minute order. (*Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 268 [judgment supersedes judge’s oral comments].)

Moreover, Golchini can hardly claim surprise that he would have to demonstrate on appeal that the order sustaining the demurrer was erroneous as to the immunity and workers’ compensation issues. These issues were clearly stated as grounds for the demurrer, and they were briefed by CSU in its moving papers *and* by Golchini in his opposition papers. According to the reporter’s transcript, Golchini was served with the proposed written order before it was presented to the court, but he did not object to it at the hearing. In addition, Golchini had the opportunity to address these issues in his reply brief in this appeal – after CSU pointed out their legal significance – but he failed to provide any substantive response.

Accordingly, Golchini has waived any challenge he might have to the trial court’s findings that CSU is immune from suit and that the second amended complaint is barred based on workers’ compensation law. Because Golchini has not addressed two of the three grounds on which the court sustained the demurrer, and because he has not established that he stated a *viable* cause of action for which he could obtain declaratory or injunctive relief, he fails to establish reversible error in the court’s conclusion that the second amended complaint failed to state a cause of action. We therefore turn to the court’s denial of leave to amend.<sup>6</sup>

---

<sup>6</sup> We acknowledge Golchini’s “Request for Reasonable Modifications” in his opening brief. We are compelled to follow the rules of appellate procedure and apply those rules whether or not a party is represented by counsel. (See, e.g., *Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1268-1271; *County of Orange v. Smith* (2005) 132 Cal.App.4th 1434, 1444.)

### C. *Leave to Amend*

As mentioned, we review the denial of leave to amend for an abuse of discretion. (*Debro, supra*, 92 Cal.App.4th at p. 946.) To prevail on appeal, an appellant must usually demonstrate a reasonable possibility that the defects in the complaint can be cured by amendment. (E.g., *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.)

In the trial court, Golchini did not argue that there were additional facts that he could allege to cure the defects of his second amended complaint. Nor does he specify any such facts in his appellate briefs. In his opening brief, Golchini merely argues: “If more specific allegations are necessary, appellant with a simple amendment using recovered documents, he would plead facts, provide detail information of the events giving rise to its claims, in the order of sequence as they happened, then the complaint would state valid causes of action against university, with adequacy would support estoppel and stop university from charging non-compliance with the claim presentation requirement.” He does not provide any specifics of what those documents contain, or what the additional allegations would be. Accordingly, Golchini has not demonstrated any reasonable possibility that the defects can be cured by amendment.

Golchini fails to establish an abuse of discretion by the trial court in declining to grant him further leave to amend his complaint.

### III. DISPOSITION

The judgment is affirmed.

---

NEEDHAM, J.

We concur.

---

JONES, P. J.

---

BRUINIERS, J.